

CALIFORNIA COASTAL COMMISSION

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Filed: October 15, 2001
49th Day: December 3, 2001
180th Day: April 13, 2002
Staff: KFS-LB
Staff Report: November 1, 2001
Hearing Date: November 13-16, 2001
Commission Action:

**STAFF REPORT: REGULAR CALENDAR**

APPLICATION NO.: 5-01-288

APPLICANT: Hellman Properties LLC

AGENT: Dave Bartlett

PROJECT LOCATION: Northeast of Pacific Coast Highway (State Route 1), Southeast of the San Gabriel River, South of Adolfo Lopez Drive, West of Seal Beach Boulevard, and North of Marina Hill; City of Seal Beach; County of Orange

PROJECT DESCRIPTION: Construction of seventy (70) 3,577 to 4,210 square foot, 26 to 31 foot tall, single family residences; streets; curbs; walls; landscaping, hardscaping, utilities, entry features and other appurtenances within the subdivision previously approved under Coastal Development Permit 5-97-367 as amended by Coastal Development Permit Amendment 5-97-367-A1. In addition, dedication of a public access easement over Street A of Tentative Tract 15402 to provide public access to the new Gum Grove Park parking lot required under CDP 5-97-367.

SUMMARY OF STAFF RECOMMENDATION:

The proposed project would construct houses, landscaping, and other appurtenances within the subdivision previously approved by the Commission under Coastal Development Permit 5-97-367, as amended. The proposed project raises issues related to the compatibility of the proposed development with the protection and continuance of the adjacent habitat areas. These issues concern the proposed use of non-native landscaping and fencing which wouldn't minimize the encroachment of domesticated animals to adjacent areas. The project also needs to be designed to minimize the visual impacts of the project from recreation areas. The project also contains elements which could deter public access through the residential community. The project has been conditioned in order to be found consistent with the biological, public access, hazard, water quality and archaeology protection policies of Chapter Three of the Coastal Act.

Commission staff recommend the Commission impose the following special conditions which require: 1) conformance with requirements previously imposed by the Commission under CDP 5-97-367, as amended, prior to issuance of the subject permit; 2) conformance with construction phase requirements to avoid impacts upon wetlands and adjacent sensitive habitat; 3) conformance with requirements related to the identification and siting of a construction staging area; 4) conformance with a requirement that the applicant revise the project plans to install fencing impervious to domestic animals, direct lighting away from sensitive habitat areas, install southern California native landscaping throughout the development and plant vegetation for visual screening and biological buffering, and revise the entry to facilitate public access; 5) conformance with requirements related to

the appearance of the structures; 6) conformance with a requirement that the applicant agree to certain measures related to public access through the residential subdivision; 7) conformance with a requirement that the applicant execute and record a deed restriction regarding permit requirements for future development; 8) conformance with a requirement that the applicant submit final plans in substantial conformance with previous plans, as modified by these special conditions; and 9) conformance with a requirement that the applicant strictly conform with the project as modified by the special conditions above.

LOCAL APPROVALS RECEIVED and SUBSTANTIVE FILE DOCUMENTS: See Appendices

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION OF APPROVAL:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION:

"I move that the Commission approve with special conditions Coastal Development Permit 5-01-288 per the staff recommendation as set forth below."

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote which would result in approval of the permit as conditioned and adoption of the following resolution and findings. An affirmative vote by a majority of the Commissioners present is needed to pass the motion.

RESOLUTION TO APPROVE A PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging

receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

1. **RELATIONSHIP OF THIS PERMIT TO COASTAL DEVELOPMENT PERMIT 5-97-367, AS AMENDED, AND TIMING OF PERMIT ISSUANCE**
 - A. All relevant requirements of Coastal Development Permit 5-97-367, as amended by Coastal Development Permit 5-97-367-A1, are hereby incorporated by reference. The permittee shall comply with all such requirements as they pertain to the subject development. Any modifications to the project required to comply with the special conditions imposed by Coastal Development Permit 5-97-367 may also require an amendment to this coastal development permit. Any amendments to Coastal Development Permit 5-97-367 may also require an amendment to this permit.
 - B. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, all 'prior to permit issuance' special conditions of Coastal Development Permit 5-97-367, as amended by Coastal Development Permit 5-97-367-A1, shall have been met and the permit issued and accepted by the permittee.
 - C. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the permittee shall comply with all post-permit issuance requirements of Special Condition 17, 18.D., 19.C, and 19.D. of Coastal Development Permit 5-97-367, as amended by Coastal Development Permit Amendment 5-97-367-A1.
 - D. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE RESIDENTIAL STRUCTURES AUTHORIZED UNDER THIS PERMIT, the bio-swale and water quality control basin required by Special Condition 23 of Coastal Development Permit 5-97-367, as amended, shall be in place and functional.
 - E. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the permittee

shall comply with all post-permit issuance requirements to the following parts of Special Condition 8 of Coastal Development Permit 5-97-367, as amended by Coastal Development Permit Amendment 5-97-367-A1: WQ-1, WQ-2, WQ-4, WQ-5, WQ-7, WQ-9, WQ-10, GEO-1, GEO-2, GEO-3, GEO-4, GEO-6 through 6.4, and GEO-7. The permittee shall submit written evidence of compliance with the above identified requirements. Any changes to the project approved by this permit necessary to comply with the above requirements shall require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

2. CONSTRUCTION RESPONSIBILITIES - STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS

The permittee shall comply with the following construction-related requirements:

- (a). Wetlands and any other environmentally sensitive habitats shall not be impacted by the project. All plans and specifications for the project shall indicate that impacts to wetlands and environmentally sensitive habitats shall be avoided and that no impact to wetlands or other environmentally sensitive habitat is authorized by the California Coastal Commission.
- (b). Prior to commencement of construction, a temporary barrier (such as but not limited to plastic mesh fencing) shall be placed between the construction areas and wetlands and environmentally sensitive habitats. The temporary barrier shall generally be located no more than 20 feet from the edge of VTTM 15402 between and including Lots 48 to 54 of VTTM 15402 and then continuing northerly along the boundary between the lowlands and the water quality bio-swale and basin. The alignment of the barrier shall be indicated on the plans required by Special Condition 3 of this permit. Barriers and other work area demarcations shall be inspected and approved by a qualified biologist. All temporary barriers, staking, fencing shall be removed upon completion of construction.
- (c). All areas disturbed and/or denuded by the project shall be restored with southern California native plants appropriate to the habitat type in accordance with the requirements of Special Condition 4 of this permit.
- (d). No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to wave erosion and dispersion;
- (e). Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction;
- (f). Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity. BMPs and GHPs which shall be implemented include, but are not limited to: storm drain inlets must be protected with sandbags or berms, all stockpiles must be covered, and a pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.

- (g). Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed at a legal disposal site outside the coastal zone.

3. STAGING AREA FOR CONSTRUCTION

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands.

1. The plan shall demonstrate that:
 - (a) Construction equipment, materials or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this condition; and
 - (b) Construction equipment, materials, or activity shall not be placed in any location which would result in impacts to wetlands or other sensitive habitat;
2. The plan shall include, at a minimum, the following components:
 - (a) A site plan that depicts:
 - (1) limits of the staging area(s)
 - (2) construction corridor(s)
 - (3) construction site
 - (4) location of construction fencing and temporary job trailers with respect to existing wetlands
 - (5) Compliance with Special Condition 2.b. of this coastal development permit.

- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. REVISED PLANS

- A.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit revised plans to the Executive Director for review and approval. As appropriate, all plans associated with the project (e.g. grading plans, technical site plan, wall and fence plans, entry plan, park plan, slope plan, construction details, landscape plans, etc.) shall be updated to incorporate the following revisions to the project:
- (i) Impassable Perimeter Walls and Fencing. All walls or fencing within VTTM 15402 facing upon Gum Grove Park or the lowlands shall be constructed of materials or have decorative bars which are spaced in a manner which renders the wall or fence impassable by common domesticated animals (e.g. dogs and cats). This requirement

does not change the height of proposed walls or fencing. Revised plans to be submitted to the Executive Director shall be accompanied by an analysis of the fence plan prepared by a qualified biologist which documents that the modified walls/fencing will be impassable by domesticated animals and shall minimize the entry of such animals to environmentally sensitive habitat including adjacent wetlands;

- (ii) Lighting. No lighting associated with the project shall significantly impact adjacent upland or wetland habitat within Lot 3 of VTTM 15381 (i.e. Gum Grove Park) or Lot 1 of VTTM 15381 (i.e. the lowlands portion of the Hellman Ranch property). All lighting within the residential development shall be directed and shielded so that light is directed away from Gum Grove Park and the lowlands. The lighting plan to be submitted to the Executive Director shall be accompanied by an analysis of the lighting plan prepared by a qualified biologist which documents that the lighting is designed to avoid impacts upon adjacent environmentally sensitive habitat including wetlands;
- (iii) Landscaping. The revised landscape plan shall substantially conform with the landscape plan for the subject site prepared by Urban Arena Landscape Architecture and Planning dated May 29, 2001 and revised August 6, 2001 except that the plan shall be revised as follows:
 - (a) All landscaping for the entire development shall be of southern California native plants appropriate to the natural habitat type. This provision applies to all lots within VTTM 15402 –including but not limited to residential lots and associated lawns or other turf on those lots- and all areas proposed and required under this coastal development permit to be landscaped outside of VTTM 15402. No plant species listed as problematic and/or invasive by the California Native Plant Society, California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized within the proposed development area. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the proposed development area.
 - (b) The landscape plan shall identify all landscaping for the proposed development area including common areas, residential lots, and landscaping along Seal Beach Boulevard.
 - (c) For erosion control purposes, where such areas were not previously indicated to be landscaped, the landscape plan shall indicate landscaping for all areas graded to prepare the site for development including VTTM 15402 and any areas within Gum Grove Park and the lowlands graded to carry out the terms of Coastal Development Permit 5-97-367, as amended.
 - (d) For visual and biological purposes, special emphasis shall be placed on landscape treatment of all residentially developed portions of the site which would be visible from or face upon Lot 3 of VTTM 15381 (i.e. Gum Grove Park) and Lot 1 of VTTM 15381 (i.e. the lowlands portion of the Hellman Ranch property). Said treatment shall include adequate plantings to break up large expanses of wall or roof within the identified viewshed. In addition to shrubs and groundcover, a minimum of one specimen size tree (24-inch box minimum) shall be planted every 10 feet of property along the west/northwest facing sides of Lots 36 through 54 (to include the graded slope located between the boundary of VTTM 15402 and the ‘settlement line’ as generally depicted on VTTM 15402 in the Commission’s files dated April 18, 2000 and as may accurately be shown elsewhere), the southwest/southern facing sides of Lots 54 and 55 (i.e. within Lot A of VTTM 15402), and the west/northwest facing sides of Lots 62 through 68 (i.e. Lot A of VTTM 15402) and Lots 1 through 13 (i.e. Lot B of VTTM 15402) and arranged to

provide a biological buffer and to maximize screening of the structures from views from Gum Grove Park and the lowlands portion of VTTM 15381.

- (e) The landscaping for visual and biological buffering required in item d. above shall be maintained by the applicant or successor(s)-in-interest to the common areas of VTTM 15402. Where required landscaping occurs outside of VTTM 15402 the applicant shall establish legal means by which the successor(s)-in-interest to the common areas of VTTM 15402 may maintain the required plantings (e.g. an easement or other appropriate legal instrument). All required plantings will be maintained in good growing condition through-out the life of the project, and whenever necessary, shall be replaced with new plant materials which conform to the requirements of this special condition to ensure continued compliance with the landscape plan.
 - (f) The landscape plan(s) shall include a map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features, and a schedule for installation of plants. A master landscape plan and master plant list shall be prepared showing the overall landscaping for the entire project area to be followed, as necessary, by focused landscape plans which substantially conform with the master landscape plan and which show detailed landscaping for individual sites and/or lots.
 - (g) Landscaping for the biological and visual buffer area shall be installed following completion of grading for the development and prior to or concurrent with commencement of construction of the houses authorized under this permit. All landscaping on individual residential lots shall be completed within 60 days of completion of construction of the house. All other landscaping shall be completed prior to the issuance of the first certificate of occupancy of any residential structure within VTTM 15402.
 - (h) The plantings established shall provide 90% cover in 90 days; and
 - (i) The master landscape plan and plant list shall be reviewed and endorsed/approved by the California Department of Fish and Game prior to submittal for review and approval by the Executive Director of the Coastal Commission.
 - (j) Monitoring. Five years from the date of the completion of the installation of landscaping as required in item (g.) above, the applicant shall submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage. If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.
- (iv) Entry Plan. Structures which physically control, or visually appear to control, public pedestrian and bicycle passage into and out of VTTM 15402 shall be prohibited. The

Entry Plan for the residential subdivision shall be revised to conform with the requirements of Special Condition 18 of Coastal Development Permit Amendment 5-97-367-A1 which prohibits the preclusion of public pedestrian and bicycle access to the streets and sidewalks constructed within VTTM 15402 and which prohibits locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks of VTTM 15402 as follows:

- (a) The proposed vehicle control gates shall be modified to allow uninterrupted, on-street passage into and out of VTTM 15402 via bicycle.
- (b) The 'entry trellis' structures which span the sidewalks and the low wall which flank the sidewalks at the entrance to VTTM 15402 shall be removed.
- (v) Entry Signage. The applicant shall submit a signage plan for the entry from Seal Beach Boulevard to the public parking lot for Gum Grove Park and the residential community which conforms with the following:
 - (a) The 'stone veneer entry monument' signs shown on the landscape, wall and entry plan prepared by Urban Arena dated May 29, 2001 and modified August 6, 2001 (detail C, sheet L8) shall be modified to identify "Hellman Ranch" (or other community name selected by the applicant) as well as "Gum Grove Park" and "Public Parking and Access". The signage shall remain in place and be maintained such that it is legible and visible to northbound and southbound traffic from Seal Beach Boulevard throughout the life of the proposed development;
 - (b) Informational and directional signage shall be installed on both sides of proposed Street A of VTTM 15402, in the locations generally shown on Exhibit 8a of the findings in support of approval of this permit, which direct public vehicular traffic toward the public parking lot required for Gum Grove Park, which notifies the public that public pedestrian and bicycle traffic into the residential area is allowed and welcome, and which notes that vehicular access beyond the gates to the residential area is limited to residents and guests or other authorized personnel. The signage shall remain in place and be maintained such that it is legible and visible to vehicular traffic and pedestrians and bicyclists using Street A.
 - (c) Other than the signs identified in parts b and c above and the community name identifier located between the entry gates as depicted in detail A, sheet L8 of the landscape, wall and entry plan prepared by Urban Arena dated May 29, 2001 and modified August 6, 2001, no other signage shall be installed without an amendment to this permit or a new coastal development permit.

B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

C. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the restrictions on development identified in Special Condition 4.A.i through 4.A.v. above within the areas referred to as VTTM 15402 and those portions of VTTM 15381 that are subject to this coastal development permit. The deed restriction shall include legal descriptions of both the applicant's entire parcels and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

5. STRUCTURAL APPEARANCE CONDITION - EXTERIOR BUILDING MATERIALS

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and approval of the Executive Director, a color board addressing exterior building materials and identifying that all walls and building exteriors shall be finished in earth tones including deep shades of brown, gray and green, with no white, light or bright colors except as minor accent features.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on building materials within VTTM 15402. The deed restriction shall include legal descriptions of both the applicant's entire parcels and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

6. PUBLIC ACCESS – REQUIREMENTS AND AGREEMENTS

- A. By acceptance of this permit, the applicant acknowledges and agrees to the following: (i) In order to assure undeterred public use of Lots C, D and E of VTTM 15402, the installation of signage, gates or other structures or appurtenances which would suggest exclusive use of those lots by any single person or group shall be prohibited; (ii) the applicant and any successors in interest to VTTM 15402 agree to work cooperatively with any entity undertaking development within the lowlands for habitat restoration, open space management and environmental education purposes to maximize public access to the lowlands through VTTM 15402, as appropriate, considering biological resource protection requirements; (iii) the fencing constructed within or between Lots C, D and E of VTTM 15402 and the lowlands or Gum Grove Park shall be considered temporary structures. In consultation with the Executive Director of the Commission, the fencing shall be removed and/or reconfigured at the time that any future coastal development permit approves development within the lowlands to which public access would be improved by removal or reconfiguration of the fencing on or between Lots C, D and E and the lowlands and Gum Grove Park. At the time removal or reconfiguration of the fencing is considered, the Executive Director shall determine whether an amendment or new coastal development permit is necessary to undertake the work. The applicant and/or successors in interest shall be responsible for removal and/or reconfiguration of the fencing and for obtaining any necessary approvals from the Commission.
- B. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the restrictions on development identified above within the areas referred to as VTTM 15402 and Lot 1 and 3 of VTTM 15381. The deed restriction shall include legal descriptions of both the applicant's entire parcels and the restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall

be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

7. FUTURE DEVELOPMENT

- A. This permit is only for the development described in Coastal Development Permit No. 5-01-288. Pursuant to Title 14, California Code of Regulations, section 13250(b)(6), the exemptions otherwise provided in Public Resources Code, section 30610(a) shall not apply. Accordingly, any future improvements to the single family houses described in this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources Code, section 30610(d) and Title 14, California Code of Regulations, sections 13252(a)-(b), shall require an amendment to Permit No. 5-01-288 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within VTTM 15402. The deed restriction shall include legal descriptions of the applicant's entire parcels. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. The deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

8. FINAL PLANS

- A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for all residential lots, for review and approval of the Executive Director:
1. Final site plans, floor plans, elevations, and foundation plans, that substantially conform with the plans submitted to the Commission, except as required to be modified by Special Condition 4 of this permit. The applicant shall submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the geologic and flood hazard mitigation requirements outlined in Special Condition 8 of Coastal Development Permit 5-97-367, as amended. Changes to the plans not specifically required in Special Condition 4 and which are not in substantial conformance with previously submitted plans require an amendment to this permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission

amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

9. PERMIT COMPLIANCE

All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth herein. Any deviation from the approved plans must be reviewed and approved by the Executive Director and may require Commission approval.

IV. FINDINGS AND DECLARATIONS

A. DETAILED SITE DESCRIPTION AND PROJECT DESCRIPTION

In summary, the proposed project is the construction of seventy (70) 3,577 to 4,210 square foot, 26 to 31 foot tall, single family residences; streets; curbs; walls; landscaping, hardscaping, utilities, entry features and other appurtenances (Exhibits 3 through 5) within the subdivision previously approved under Coastal Development Permit (CDP) 5-97-367, as amended (Exhibit 2). In addition, the applicant is proposing dedication of a public access easement over Street A of Vesting Tentative Tract Map (VTTM) 15402 to provide public access to the new Gum Grove Park parking lot required under CDP 5-97-367. Details of the proposal are discussed more fully below.

The subject site is bounded on the west by Pacific Coast Highway (State Route One), on the south by the Marina Hill residential area, on the east by Seal Beach Boulevard, on the north by City of Seal Beach Police and Public Works Departments and the Los Alamitos Retarding Basin, and on the northwest by the Haynes Cooling Channel owned by the City of Los Angeles Department of Water and Power (Exhibit 1). The proposed development would occur upon the low marine terrace known as Landing Hill adjacent to Seal Beach Boulevard. The proposed development is located between the first public road in the area (Seal Beach Boulevard) and the sea (the tidally influenced wetlands located on the lowlands portion of the site).

Most of the development would be located within VTTM 15402 (Exhibit 2), a single family residential subdivision approved by the Commission under CDP 5-97-367, as amended (Exhibit 9). Some retaining walls, block walls and utilities would be constructed outside of VTTM 15402 and within VTTM 15381. These structures would be located between VTTM 15402 and Seal Beach Boulevard and between VTTM 15402 and the northern boundary of VTTM 15381. In addition, landscaping, a sidewalk along Seal Beach Boulevard and private community signage is proposed within the Gum Grove Park lot which faces upon Seal Beach Boulevard. Meanwhile, only utility connections, access roads and paths and grading—all previously contemplated under CDP 5-97-367, as amended—would occur within those portions of the lowlands and mineral production areas of the Hellman Ranch property closest to the proposed residential development.

1. Single Family Residences and Appurtenances

There are four proposed models, each of which are two stories and have optional floor plans and architectural styling (Exhibit 4). Plan One would have approximately 3,577 square feet of living space

plus a 2 to 3 car attached garage (depending on options). Optional bedrooms, offices, and bedroom 'retreats' could add up to 385 square feet of living space. This plan would be 26 to 29 feet tall depending upon the architectural styling chosen, which include "cottage", "spanish", and "craftsman" appearances (Exhibit 4). There would be a total of 23 'Plan One' style units (Exhibit 3). Plan Two would have approximately 3,782 square feet of living space plus a 2 to 3 car attached garage (depending on options chosen). An optional office or cigar room would add up to 246 square feet of living space. This plan would be 25'6" to 30 feet tall depending upon the architectural styling chosen, which include "cottage", "spanish", and "monterey" appearances (Exhibit 4). A total of 24 'Plan Two' style units are proposed (Exhibit 3). Plan Three would have approximately 4,210 square feet of living space plus a 2 to 3 car attached garage (depending on options chosen). An optional crafts rooms and bedrooms would add up to 161 square feet of living space. This plan would be 27 to 28 feet tall depending upon the architectural styling chosen, which include "cottage", "spanish", and "monterey" appearances (Exhibit 4). There are a total of 23 'Plan Three' style units (Exhibit 3).

Each residential lot would have hardscape patios, walkways and driveways plus landscaping (Exhibit 3). In addition, each lot would be enclosed on three sides (side yards and rear yard) with a combination of solid concrete block walls and 'view fences' comprised of a low solid wall topped by a decorative steel fence (Exhibit 5). Sideyard walls would be 6 feet high and 'view fencing' would be 6'3" high. Setbacks within the lots include a minimum 5 foot wide side yard setback, 10 to 20 foot first and second floor setbacks for the front yard and minimum 15 foot setbacks for the rear yard.

2. Common Areas, Community Park, Landscaping and Signs

Within VTTM 15402 there are two landscape lots (Lots A and B), three open space lots (Lots C, D, and E), and four private street lots (Streets A through D) (Exhibits 2 and 3). Development within these lots includes construction of the residential community entry way including entry gates, decorative kiosks, sidewalk trellis structures, decorative paving and community monument signs; construction of perimeter/sound walls around the community; landscaping of the streets, open space areas, and community park; and construction of community park amenities including benches, gazebos, shade trellises and pathways. There are also several retaining walls within the residential development area.

The applicant is also proposing the construction of perimeter walls, sound walls and retaining walls as well as landscaping within VTTM 15381 which surrounds VTTM 15402 (Exhibit 3 and 5). Perimeter walls would be constructed around the existing oil production facilities located along Seal Beach Boulevard near the entrance to VTTM 15402. These walls would be 10 feet tall. A proposed sound wall would be constructed between the residential development and Seal Beach Boulevard, north of the oil production facilities. This wall would be 8 feet tall. The retaining wall would be constructed north of VTTM 15402 between the residential development and the City public works and police facilities.

Landscaping would also be installed along the Seal Beach Boulevard frontage and on the graded slope between the residential development and the bio-swale and water quality basin (Exhibit 5). In addition, the applicant is proposing to place private community name signs indicating 'Hellman Ranch' at the corners of Street A and Seal Beach Boulevard. One of these signs would be located upon land to be dedicated to the City of Seal Beach as Gum Grove Park.

3. Streets and Utilities

The proposed project also includes the construction of streets, utilities, and maintenance roads within VTTM 15402 and 15381. Within the residential development (VTTM 15402), streets, curbs, gutters, storm drains and catch basins, fire hydrants, street lamps, sewer lines, water lines, telecommunications/cable lines, and power lines would be installed. All utilities would be buried below ground. Streets would be a minimum of 36 feet wide with sidewalks on both sides of the street.

The project also includes the installation of sidewalks along the entire frontage of Seal Beach Boulevard. In addition, an access road would be constructed to provide a connection between the oil production facilities which are adjacent to Seal Beach Boulevard and the other mineral production facilities located in the lower elevations of VTTM 15381 (Exhibit 3).

B. PREVIOUS RECENT COMMISSION ACTIONS

1. 1998 Commission Action (Hellman Properties LLC)

On September 9, 1998, the Commission approved CDP 5-97-367 for subdivision of the 196 acre Hellman Ranch into several parcels including a 70-home subdivision, and construction of an 18-hole golf course, construction of 39.1 acres of wetlands, dedication of a public park (Gum Grove Park), visitor serving amenities including trails and reservation of 13.2 acres of existing mineral production area for future wetlands restoration. The Commission imposed 14 special conditions (see Appendix A), which required 1) reservation of the lowlands portion of the property for acquisition for wetlands restoration; 2) a revised VTTM No. 15381 reducing the number of lots from 9 to 5; 3) lease restrictions on the uses proposed on the State Lands Commission parcel; 4) dedication of Gum Grove Park; 5) implementation of a public access program; 6) requirements regarding the review and implementation of the archeological investigation; 7) conformance with water quality requirements; 8) implementation of mitigation measures for geologic hazards; 9) requirements to obtain future coastal development permits for the houses; 10) demonstration of legal interest; 11) requirements for wetlands restoration; 12) requirements for a final revised wetlands restoration program; 13) requirements related to operation of the golf course and implementation of a wetland education program for golfers; and 14) requirements regarding the timing of construction.

2. Coastal Development Permit Amendment 5-97-367-A1

The project approved under CDP 5-97-367 resulted in the fill of wetlands for the construction of a golf course. This approval was challenged in a lawsuit filed by the League for Coastal Protection, California Earth Corps and the Wetlands Action Network. In response to the lawsuit, a settlement agreement was reached by the parties involved. As noted in the written settlement, "[t]he basic purpose of this Agreement is to resolve litigation by remanding the subject project to the Coastal Commission for consideration of a modified Project as set forth in Exhibit "A" that would: (1) eliminate development within and impacts to wetlands that would have been caused by the golf course portion which would have resulted in the fill of 17.9 acres of existing wetlands; and (2) allow the balance of the project within the upland areas to proceed forward...". In response to this settlement agreement, the applicant filed CDP Amendment Application 5-97-367-A1 for an amendment to CDP 5-97-367 which eliminates the proposed golf course and direct impacts to wetlands. In summary, the

amendment eliminated the 100 acre golf course and associated wetland impacts and wetland restoration and added a deed restriction reserving 100 acres of lowlands for acquisition for wetlands restoration; added a deed restriction reserving 57 acres of land presently used for mineral production to be made available for sale for wetlands restoration upon cessation of oil production; expanded the footprint of the 70-lot residential subdivision from 14.9 acres to 18.4 acres; reduced mass grading from 1.6 million cubic yards to 420,000 cubic yards; eliminated proposed development on a parcel of land owned by the State Lands Commission, and constructs a bio-swale, riparian corridor and water quality basin to mitigate runoff from the residential development.

At the October 2000 hearing, the Commission approved the proposed amendment with special conditions (Exhibit 9). Special Conditions 1, 2, 3, 4, 5, 6, 11, 12, 13 and 14 imposed under CDP 5-97-367 were deleted by CDP amendment 5-97-367-A1. Several of these conditions were replaced by subsequent conditions. Special Condition 15 carries forward previously imposed special conditions. Special Condition 16 implements a proposed lowlands deed restriction which requires that the applicant make 100 acres of lowlands available for sale for wetlands restoration. Special Conditions 17, 18 and 19 replace previously imposed Special Conditions 4 (Gum Grove Park dedication), 5 (Public Access Program) and 6 (Archeology), respectively, which were updated to reflect changes which occurred in the amendment. Special Condition 20 requires the applicant to submit final plans regarding the water quality structures. Special Conditions 21 and 22 require the identification and deed restriction of at least 9.2 acres of raptor foraging habitat and the management of that habitat as raptor foraging habitat. Special Condition 23 requires the applicant to implement the proposed water quality program (including bio-swale and detention basin) and mandates that such facilities be designed to mitigate runoff up to the 85th percentile 24-hour event. Special Condition 24 requires the deed restriction of land to support the required water quality treatment system. Special Condition 25 addresses construction related requirements to avoid impacts to existing wetlands. Special Condition 26 requires strict compliance with the proposal as conditioned by the Commission. Special Condition 27 replaces previously imposed Special Condition 2 and places restrictions on the subdivision of the property. Special Condition 28 implements the applicant's proposal to make the 57 acres of land presently used for mineral production available for sale for wetlands restoration when oil production ceases on that land.

C. BIOLOGICAL RESOURCES- WETLANDS AND UPLANDS

The Hellman Ranch site contains 27.087 acres of scattered wetlands according to a wetlands assessment of the site (Coastal Resources Management & Chambers Group, 1996). According to the assessment, the existing wetlands are comprised of 15.91 acres of salt marsh vegetation, 2.026 acres of seasonally ponded water, 7.0059 acres of alkaline flat and 3.146 acres of tidal channel. The majority of the wetlands are clustered: 1) around a tidal channel which runs through the middle of the lowlands portion of the property and delivers site runoff to a culvert which connects to the San Gabriel River or 2) adjacent to the Haynes Cooling Channel at the north edge of the property. These wetlands are located on the lower elevations of the property. The subject development is concentrated on the uplands portion of the property overlooking the lowlands where the above identified wetlands are located. The proposed development would be located approximately 171 feet to 270 feet away from the nearest three concentrations of wetlands. Special Conditions previously imposed by the Commission under CDP Amendment 5-97-367-A1, set the lowlands aside to be made available for sale for wetlands restoration. Development of the residential subdivision and other appurtenances which are adjacent to the lowlands must be designed to protect existing resources

and to avoid impacts that would hinder restoration of the lowlands. Section 30231 of the Coastal Act requires that the biological productivity of wetlands be maintained, and where feasible restored. Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

In addition, the proposed residential development would be located adjacent to the 14.8 acre passive recreational nature park, Gum Grove Park, which is to be dedicated to the City of Seal Beach as required by CDP 5-97-367-A1. The proposed project also includes landscaping within the 14.8 acre park area to be dedicated. The residential housing development is also located adjacent to and overlooks the lowlands portion of the property. As noted above, there are wetlands located within the lowlands. In addition, the lowlands provide foraging area for raptors and other bird species which nest in Gum Grove Park or occasionally visit the site. The uplands portion of the property, where the subject development is located, also provides raptor foraging habitat. As mitigation for the 18.4 acres that will be impacted due to the construction of the residential development, the Commission required the dedication of 9.2 acres of habitat within the lowlands as raptor foraging habitat under CDP Amendment 5-97-367-A1. The dedicated area is to be managed and maintained as raptor foraging habitat. The biological resources within Gum Grove Park and the lowlands area, described below, must be protected from impacts which could occur if the development is not designed to be compatible with the continuance of the park's resources. Section 30240(b) of the Coastal Act states, in relevant part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

There are several bird species which nest and/or forage at the Hellman Ranch and within Gum Grove Park. The EIR and subsequent biological analyses outline species present. The Federal and State listed American peregrine falcon (*Falco peregrinus anatum*) may occasionally forage at the site. Loggerhead shrikes (*Lanius ludovicianus*) (a state listed Species of Special Concern) may breed in large shrubs and small trees in ruderal areas of the property and forage on small prey such as insects and lizards which occur on the property. The white-tailed kite (*Elanus leucurus*) (a state listed Fully Protected species) may breed in Gum Grove Park and has been observed in the project area. In addition, other raptors that are state listed Species of Special Concern, such as the northern harrier (*Circus cyaneus*), sharp-shinned hawk (*Accipiter striatus*), Cooper's hawk (*Accipiter cooperii*), osprey (*Pandion haliaetus*), prairie falcon (*Falco mexicanus*), merlin (*Falco columbarius*) and short-eared owl (*Asio flammeus*), occasionally forage on the subject site. Among these raptors, the Cooper's hawk has the potential to breed in Gum Grove Park. Other raptors which have been

observed at the project site include the turkey vulture (*Cathartes aura*), American kestrel (*Falco sparverius*), red-tailed hawk (*Buteo jamaicensis*) and red-shouldered hawk (*Buteo lineatus*). Gum Grove Park provides roosting, nesting and breeding areas for these sensitive avian species. In addition, Gum Grove Park provides potential habitat for the monarch butterfly (*Danaus plexippus*). Section 30240(b) of the Coastal Act requires that development adjacent to sensitive habitat areas and park and recreation areas, such as those cited above, be sited and designed to protect those areas.

As noted previously, the proposed development would occur within a subdivision previously approved by the Commission under CDP 5-97-367, as amended by CDP 5-97-367-A1. As proposed and conditioned under CDPA 5-97-367-A1, the residential subdivision was sited and designed to avoid adverse impacts upon wetlands. Measures protecting the wetlands include: restrictions regarding subdivision and any future subdivision of the property; proposed deed restrictions over the lowlands portion of the property –where the wetlands are located- making those areas available for sale for wetlands restoration; and requirements related to the mitigation of runoff from the development area so that the quality of water within coastal waters and wetlands would not be adversely impacted. The findings in support of the approval are hereby incorporated by reference. Compliance with the prior to permit issuance special conditions of CDPA 5-97-367-A1 are necessary to ensure that the previously approved project, and the development now proposed conform with the Chapter 3 policies of the Coastal Act. In order to assure that the biological resource protection measures of CDPA 5-97-367-A1 are implemented prior to commencement of the proposed development, the Commission imposes Special Condition 1. Special Condition 1 requires the applicant to comply with all requirements of CDP 5-97-367, as amended by CDP Amendment 5-97-367-A1, as those requirements pertain to the subject development. In addition, Special Condition 1 mandates that this coastal development permit shall not be issued until the prior to permit issuance requirements of CDP 5-97-367, as amended, have been achieved and the permit and amendment are issued.

The previously approved subdivision is sited to provide a 171 foot to 270 foot wide buffer between existing wetlands and the proposed residential uses. However, there are elements of the proposed project, including construction activities, lighting, landscaping, and fencing which -if not properly undertaken or designed- could reduce the effectiveness of the buffer and cause adverse impacts upon wetlands and associated plant and animal species.

If construction equipment and staging is not appropriately managed, adverse impacts upon wetlands adjacent to the development area could occur. For instance, soil stockpiles could erode causing sedimentation of wetlands. In addition, if not sited appropriately, construction equipment and activity could cause trampling of the wetlands. The Commission previously imposed Special Conditions under CDPA 5-97-367-A1 designed to address construction phase impacts associated with the mass grading of the site. However, those conditions were not imposed to address the development now proposed. Therefore, the Commission imposes Special Conditions 2 and 3. Special Condition 2 requires the applicant to comply with certain construction responsibilities including erosion control measures and materials storage. Special Condition 3 requires that, prior to issuance of the coastal development permit, the permittee shall submit a plan for the review and approval of the Executive Director which indicates that the construction staging area(s) and construction corridor(s) will avoid impacts to wetlands. The plan shall demonstrate that construction equipment or activity shall not occur outside the staging area and construction corridor identified on the site plan required by this

condition and that construction equipment and activity shall not be placed in any location which would result in impacts to wetlands. The plan shall include, at a minimum, the following components: a site plan that depicts the limits of the staging area(s); construction corridor(s); construction site; the location of construction fencing and temporary job trailers with respect to existing wetlands.

In addition, the proposed project would introduce new artificial lighting to the project area. Artificial lighting can adversely impact sensitive habitat areas by distracting feeding and breeding activities of birds and other animals. This impact can be minimized by directing lighting away from sensitive habitat area. Therefore, the Commission imposes Special Condition 4 which requires the applicant to submit a lighting plan which demonstrates that all lighting within the residential subdivision shall be directed away from the lowlands and Gum Grove Park. The lighting plan must be accompanied by a biological analysis which documents the effectiveness of the lighting plan.

Some of the new occupants of the residential development are likely to keep domesticated animals such as dogs and cats. If not restrained, these domesticated pets can enter sensitive wildlife areas where they can disturb the breeding efforts of natural wildlife, compete with natural wildlife for food or disturb their feeding activities. In some cases, domesticated pets can hunt natural wildlife. In order to reduce such disturbances, efforts must be made to confine pets to the residential area. The proposed project includes perimeter fencing and walls which can serve this purpose. However, proposed perimeter walls and fencing which face upon the lowlands consist of low solid walls topped by decorative metal fencing. The widely spaced bars in this proposed fencing may allow some pets to escape from the fenced area and enter natural wildlife habitat. In order to reduce this impact, the Commission imposes Special Condition 4 which requires the applicant to revise the fencing plan to include walls or fencing that are constructed of materials or designed with bars that are spaced in a manner that would render the fence impassable by common domesticated animals, such as dogs and cats. The proposed perimeter walls and fencing are 5½ to 6 ½ feet tall. The requirement regarding materials does not require the height of the wall or fence to be changed. The revised fencing plan must be accompanied by a biological analysis documenting the effectiveness of the revised fencing.

Finally, the proposed project includes landscaping of the common areas within the residential subdivision, as well as landscaping along Seal Beach Boulevard and within lots overlooking the lowlands. The use of non-native and invasive plant species within new development can cause adverse off-site impacts upon natural habitat areas that are both near and far from the subject site. Non-native and invasive plant species can directly colonize adjacent natural habitat areas. In addition, the seeds from non-native and invasive plant species can be spread from the developed area into natural habitat areas via natural dispersal mechanisms such as wind or water runoff and animal consumption and dispersal. These non-native and invasive plants can displace native plant species and the wildlife which depends upon the native plants. Non-native and invasive plants often can also reduce the biodiversity of natural areas because –absent the natural controls which may have existed in the plant's native habitat- non-native plants can spread quickly and create a monoculture in place of a diverse collection of plant species.

The proposed landscape plan is comprised of a mixture of non-native and native plant species. Some proposed plant species, such as *Schinus molle* (Peruvian pepper tree), have been identified by the California Exotic Pest Plant Council as a 'wildland pest plant of lesser invasiveness'. Although the plant is identified as 'lesser invasive' it is, nevertheless, invasive. The applicant has previously revised their landscape plan to remove some of the more invasive plant species. However, the

applicant continues to propose the installation of some non-native and potentially invasive species. The applicant submitted a biological analysis of the proposed landscape plan prepared by Glenn Lukos Associates dated August 21, 2001 (Exhibit 10). The biological analysis states that the landscape plan has been designed to confine the use of non-native plants to interior areas of the development and adjacent to Seal Beach Boulevard away from the sensitive habitats located within the lowlands. The applicant contends that this proposed separation would protect adjacent sensitive habitat areas from the encroachment of non-native and invasive plants.

Although the applicant has taken steps to reduce impacts from the use of non-native plants within the proposed landscape plan, the Commission finds that such proposed measures would not be adequate to protect existing adjacent natural habitat areas. The placement of any non-native plant species within the development, which could potentially spread to the natural habitat areas, is a threat to the biological productivity of adjacent natural habitat and would not be compatible with the continuance of those habitat areas. The proposed project involves new development within a previously undeveloped area. Under these circumstances it is possible to entirely avoid any possible impact related to the spread of non-native and invasive plant species by requiring that all landscaping consist of California native plants that are appropriate to the natural habitat type within which the proposed development is occurring. Therefore, the Commission imposes Special Condition 4 which requires the applicant to submit revised landscape plans showing the use of native California plants as described above. Special Condition 4 requires the applicant to submit revised plans for all areas previously proposed for landscaping such as all common areas within the residential development and along the strip of land adjacent to Seal Beach Boulevard. However, Special Condition 4 also requires the applicant to submit landscaping plans for the individual residential lots in order to assure compliance with the landscaping requirements of this permit.

Furthermore, landscaping can be installed which would provide erosion control and enhance the effectiveness of the buffer between the proposed residential development and the sensitive habitats and parkland located adjacent to the proposed residential community. Landscaping can diffuse light and noise generated from the residential area and create an additional barrier to domesticated animals which may bypass the fencing required above. Landscaping can also provide erosion control to prevent sedimentation of the wetlands located in the lowlands. As will be discussed more fully within the findings regarding visual resources, landscaping can also screen the developed area from public viewing areas. Therefore, the Commission imposes Special Condition 4 which requires the applicant to submit landscaping plans for all areas which are graded to prepare the site for development including any areas graded within Gum Grove Park and the lowlands to carry out CDP 5-97-367-A1 (Exhibit 6, pages 1-2). This landscape plan requirement supplements the revised landscape plan requirement previously imposed by the Commission under Special Condition 20 of CDP 5-97-367-A1 by expanding the area for which the applicant is responsible to landscape. The previously imposed requirement related specifically to the water quality basin required under the previous permit. The expanded requirement relates to buffering required to mitigate the impacts of residential development upon adjacent park and habitat areas.

The landscaping required for buffering purposes will mitigate operational phase impacts associated with the development. This same landscaping may also address construction phase impacts upon Gum Grove Park and sensitive habitat areas such as erosion and noise. Therefore, Special Condition 4 requires the applicant to install the landscaping required for buffering purposes prior to or concurrent with commencement of construction of the homes within VTTM 15402 (Exhibit 6, page 3).

Except for the landscaping on individual residential lots, Special Condition 4 requires all other landscaping to be completed prior to the issuance of the first certificate of occupancy of any residential structure within VTTM 15402. Finally, Special Condition 4 requires the applicant to complete all landscaping on individual residential lots within 60 days of completion of construction of each house. This timing arrangement will ensure that buffering, screening and erosion control landscaping will be completed regardless of whether every individual single family residence is completed.

Special Condition 4 also requires the applicant and successor in interest to maintain the required landscaping in good growing condition throughout the life of the development. Special Condition 4 recognizes that a portion of the required landscape area is located outside of VTTM 15402. The special condition requires the applicant and successor in interest to establish a legal means by which to maintain the landscaped area. Furthermore, in order to assure that the required landscaping for buffering purposes is successfully established and to assure that the other landscaping requirements are in place, Special Condition 4 requires the applicant or successor in interest, five years from the date of the completion of grading, to submit for the review and approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to the Commission's approval. The monitoring report shall include photographic documentation of plant species and plant coverage. Furthermore, if the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or a qualified Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan. The applicant or successor in interest shall implement the supplemental landscaping plan approved by the Executive Director and/or seek an amendment to this permit if required by the Executive Director.

In order to assure that all present and future property owners are aware of the landscaping, lighting, and fencing requirements, the Commission imposes Special Condition 4. Special Condition 4 requires the applicant to execute and record a deed restriction identifying the restrictions on development established by the Commission.

The Commission has reviewed and modified the proposed project to conform with the biological resource protection policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission.

The conditions identified above will protect the biological productivity of wetlands adjacent to the development area and will assure that the development does not degrade adjacent parks and sensitive wildlife areas and will assure the continuance of the resources. As conditioned, the

Commission finds the proposed development is consistent with Section 30231 and 30240(b) of the Coastal Act.

D. VISUAL RESOURCES AND COMMUNITY CHARACTER

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Section 30253 of the Coastal Act states, in part:

New development shall:

...(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The proposed project would construct single family residences upon an upland area of the Hellman Ranch site which will be visible to the public. For instance, the development will be visible from vantages within Gum Grove Nature Park. Also, the lowlands portion of the Hellman Ranch are required to be made available for sale for wetlands restoration, open space, and environmental education purposes under CDP 5-97-367, as amended. When sold, these lowlands areas may be open to the public. The proposed residential development would be visible from the lowlands portion of the property. In addition, the proposed residential development would be prominent within distant views of the site across the lowlands from existing public trails located along the banks of the San Gabriel River. Finally, the site would be visible from Seal Beach Boulevard which is an important coastal access route for those wishing to visit the beach communities located in the area.

In urbanized areas such as Seal Beach, open spaces and parks can contribute to the visual quality of coastal areas by breaking up continuous expanses of development. One attraction that a visitor to Gum Grove Nature Park may seek is an escape from the urban environment. Given plans to expand and enhance the wetlands and uplands area within the lowlands portion of the Hellman Ranch, a person visiting Gum Grove Park would expect to view a more naturally appearing area largely free of urban encroachment. However, under present conditions, the proposed residential development would be a prominent feature within the viewsheds available from Gum Grove Park, the lowlands portion of the property, and from the San Gabriel River.

In order to reduce the visual impact of the residential development, vegetation may be planted to screen the area from public vantages. Trees and shrubs can break up continuous lines of walls and buildings. In addition, the choice of building materials and colors can control the appearance of the development from public vantages. Therefore, in order to reduce the visual impact of the

development, the Commission imposes Special Condition 4 and Special Condition 5. Special Condition 4 requires the applicant to submit revised landscape plans and requires the applicant and/or successors in interest to plant and maintain vegetation in specified locations around the residential development which will screen the developed area from public vantage points (Exhibit 6, page 3). In addition, Special Condition 5 requires the applicant to submit a color board addressing exterior building materials and identifying that all wall and building exteriors shall be finished in earth tones including deep shades of brown, gray and green, with no white, light or bright colors except as minor accent features. Each of these special conditions also require the applicant to execute and record deed restrictions which notify the applicant and successors in interest of the restrictions on the development.

Also, the proposed project would result in the construction of single family homes that are 26 to 31 feet tall. The proposed structures are scaled to be consistent with the character of the surrounding developed community. In addition, the structures are sized and positioned such that they do not have an overwhelming presence adjacent to Gum Grove Park and the lowlands. Once constructed, Coastal Act Section 30610(a) notes that additions to existing single family homes may occur without a coastal development permit. However, Section 30610(a) also provides that the Commission may, through regulation, identify those types of additions which have a risk of substantially adversely affecting coastal resources. Section 13250 of the California Code of Regulations further provides that the Commission may impose special conditions requiring a permit for development which might otherwise be considered exempt. Additions to the existing homes could result in taller structures. Taller structures may adversely effect coastal resources because they could be out of scale with the community and more visible from public viewing areas. In order to assure that the Commission may review any such proposals for development, the Commission imposes Special Condition 7. Special Condition 7 requires a deed restriction which notifies all present and future landowners of land within VTTM 15402 that repair and maintenance and additions to the single family homes approved under this permit require a coastal development permit.

Also, presently there is a 6 to 8 foot tall perimeter fence along Seal Beach Boulevard. The fence is chain link with an opaque fabric covering. Therefore, there currently are no unobstructed public views of Gum Grove Park and the lowlands from Seal Beach Boulevard. Under the proposed project, views from Seal Beach Boulevard toward Gum Grove Park and the lowlands would be similar or slightly improved. For instance, the residential subdivision configuration includes a roadway (Street A) that leads from Seal Beach Boulevard and ends at a proposed community park. Views from Seal Beach Boulevard down Street A and through the community park would be partially obstructed by landscaping and other appurtenances. However, views would be more available than presently exist. Meanwhile, the proposed 26 to 31 foot tall houses and the associated perimeter walls would largely obstruct any other views from Seal Beach Boulevard. However, given site constraints elsewhere on the property related to biological resources, obstruction of views across the property from Seal Beach Boulevard to accommodate new development were unavoidable. In fact, as noted above, existing views of the site are obstructed. However, even if views were currently unobstructed there are no significant blue water coastal views or other significant vistas from Seal Beach Boulevard. Therefore, the view impacts occurring from Seal Beach Boulevard would not be significant under Section 30251 of the Coastal Act.

The Commission has reviewed and modified the proposed project to conform with the visual resource protection policies of the Coastal Act. In order to assure that the applicant conforms with the project

as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission.

The proposed project would have adverse impacts upon the visual quality of scenic coastal areas when viewing the residential development from Gum Grove Park and the lowlands. These visual impacts can be mitigated with vegetation and appropriate building materials and color schemes. In addition, the future heights of the buildings may be managed through the coastal development permit process. The Commission has imposed special conditions addressing these impacts. Therefore, as conditioned, the Commission finds the proposed project is consistent with Sections 30251 and 30253 of the Coastal Act.

E. PUBLIC ACCESS AND RECREATION

The proposed development is located between the first public road in the area (Seal Beach Boulevard) and the sea (the tidally influenced wetlands in the lowlands).

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212.5 of the Coastal Act states:

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the

recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

1. Trails, Parking and Public Access through Residential Development

The subject application requests authorization for the construction of seventy (70) single family homes, landscaping, streets, utilities, perimeter walls, and common area appurtenances including community park improvements and entry gates within the subdivision approved by CDP 5-97-367, as amended. In approving the subdivision and grading of the site, the Commission previously found that the proposed development would have impacts upon public access unless the applicant dedicated public park land (Gum Grove Park) and provided public parking and trails to access the park. In addition, the Commission required the applicant to allow public pedestrian and bicycle access into the residential subdivision. Finally, the applicant previously proposed to make the lowlands portion of the property available for wetlands restoration, open space, and environmental education purposes. Public access through the subdivision would facilitate any future efforts toward development of the lowlands for habitat restoration and public education purposes. The development which is now proposed must be undertaken in a manner which is consistent with the public access and recreation policies of the Coastal Act and the Commission's previously imposed requirements.

The development authorized by CDP 5-97-367, as amended, does not preclude the applicant from restricting public vehicular access to the residential subdivision. However, the approval does specifically prohibit any restriction on the entry of public pedestrian and bicycle traffic to the residential community. Special Condition 18 of CDP 5-97-367, as amended, specifically prohibits "...locked gates, walls, fences, or other obstructions prohibiting public pedestrian or bicycle access to the streets and sidewalks constructed within the area subject to Vesting Tentative Tract Map No. 15402..."

The subject application seeks approval for the construction of the streets and sidewalks and entry appurtenances to VTTM 15402. The entry treatment proposed includes the installation of gates which control the passage of vehicles into and out of the residential development (Exhibit 5). In addition, the entry treatment includes 'trellis' structures which span the sidewalks which flank the vehicle control gates. As noted above, previously imposed special conditions prohibit the applicant from installing development that would obstruct the passage of pedestrians and bicycles into and out of the residential development. However, the plans submitted are not consistent with these requirements. For instance, the proposed vehicle control gates span the entire road lane. Accordingly, bicyclists using the road would only be able to pass into the residential subdivision by leaving the roadway and riding on the sidewalk. In addition, the presence of trellis structures spanning the sidewalks gives the sense that pedestrian entry into the residential development is controlled and may require special permission. The Commission finds that the design of the entryway would deter pedestrians and bicyclists from entry into the residential subdivision and would not be consistent with previously imposed special conditions. Public access would be diminished because non-automobile circulation within the development would be deterred. Therefore, the Commission imposes Special Condition 4 which requires the applicant to submit revised plans showing removal of the trellis structures and re-design of the entryway gates to allow uninterrupted, on-street passage into and out of VTTM 15402 via bicycle (Exhibit 8a).

If modified as required above, the proposed vehicle control gates would be consistent with the Commission's previously imposed requirements related to public entry to the subdivision. Accordingly, as modified, the gates may be installed. However, similar to the presence of the trellis structures identified above, the presence of vehicle control gates suggests that any public entry to the residential subdivision requires special permission from a property owner within the subdivision. Clearly, the Commission intended that the public be allowed to enter the subdivision and that no part of the development should act as a deterrent to public access. The Commission finds that the only way to ensure that the public is aware of the availability of public access through the subdivision is through signage declaring its availability. Therefore, the Commission imposes Special Condition 4 which requires the applicant to provide signage which is visible from Seal Beach Boulevard and from Street A declaring that public pedestrian and bicycle access through the residential subdivision is welcome. This would be accomplished in two ways. The first is by modifying signs which are proposed at the corner of Seal Beach Boulevard and Street A in the manner discussed more fully below to indicate that public access is available at Street A. In addition, once a person enters Street A they must be provided direction toward the public parking lot if they are driving. If the person is walking or cycling, the signs must notify that person that public access is available through Gum Grove Park or within the residential area. Special Condition 4 identifies the locations of signs and the information required on those signs. The sign locations are further identified in Exhibit 8a.

Also, the proposed project includes the construction of community name signs, stating 'Hellman Ranch', at the corners of Street A and Seal Beach Boulevard. One of these signs would be located on land to be dedicated to the City of Seal Beach as Gum Grove Park under Coastal Development Permit 5-97-367, as amended. As will be discussed more fully below, the applicant is proposing to provide vehicle, pedestrian, and bicycle access from Seal Beach Boulevard to the required parking lot for Gum Grove Park via a portion of Street A of VTTM 15402. The proposed community name signage would be located between the driveway for the required parking lot and Seal Beach Boulevard. These signs suggest and could be interpreted by persons travelling along Seal Beach Boulevard to mean that the parking lot is for the Hellman Ranch property and not available for public access. This would be a deterrent to public access. In addition, one of these signs would be located upon park land which is to be dedicated for public access. The placement of signs -wholly intended to identify a private community- upon public park land would not be consistent with the intended use of the park land.

However, the proposed signage visible from Seal Beach Boulevard represents an opportunity to consolidate signage requirements for the entry area. For instance, the applicant wishes to provide community name signage to identify the community. In addition, the applicant is required by Special Condition 18 of CDP 5-97-367, as amended, to provide signage visible from Seal Beach Boulevard which invites and encourages public use of Gum Grove Park and its amenities. The applicant has submitted the proposed signage which consists of a single 1½ foot by 1 foot sign visible to southbound traffic on Seal Beach Boulevard (Exhibit 8b). This proposed sign is small and would only be visible to southbound traffic. The Commission finds that this single sign would not fulfill the requirements of Special Condition 18 of CDP 5-97-367. Alternatively, the applicant could revise the two signs located at the corners of Street A and Seal Beach Boulevard to notify the public of the presence of Gum Grove Park and the availability of public parking and public access. This information could be placed on the same sign that applicant wishes to use to identify the community name. Consolidating the signs would minimize visually degrading sign clutter. In addition, the

signage would notify the public, in a prominent and logical location, of the public access opportunities available at the site. The reduction of sign clutter would mitigate for the placement of private signage upon public land. Therefore, the Commission imposes Special Condition 4 which requires the applicant to modify the signs at the corner of Street A and Seal Beach Boulevard to identify the community name as well as the presence of Gum Grove Park and the availability of public parking and access. The condition requires that the signage remain in place and be maintained such that it is legible and visible to northbound and southbound traffic from Seal Beach Boulevard throughout the life of the proposed development. In order to minimize sign clutter and to ensure that any signage would not discourage public access, Special Condition 4 also states that, other than the signs identified above and the community name identifier located between the entry gates, no other signage shall be installed without an amendment to this permit or a new coastal development permit.

Furthermore, one purpose of requiring undeterred public access through the residential subdivision is to provide the public with vantage points of the lowlands and to facilitate future plans for public use of the lowlands. For instance, public pedestrians and bicyclists should not be deterred from enjoying the park and open space areas to be developed on Lots C, D and E within VTTM 15402. In addition, future access to the lowlands would be facilitated by connecting trails to Lots C, D and E.

In order to achieve the public access goals outlined above the Commission must condition the development so that such access is not precluded. In order to assure undeterred public use of Lots C, D and E, the Commission imposes Special Condition 6 which prohibits the installation of signage or gates which would suggest exclusive use of those lots by the residents of VTTM 15402.

Also, the proposed project includes the installation of landscaping, fencing, gazebos, shade trellis', benches and walkways within Lots C, D and E of VTTM 15402 (Exhibit 7). The proposed fencing at Lot D would be placed on the graded slope between the border of VTTM 15402 and the lowlands portion of the property. Plans indicate a gate would be installed to allow passage through the fence. The gate provides access from the residential development to the bio-swale and water quality/flood control detention basin which was required and approved by the Commission under CDP 5-97-367, as amended. This same gate may also provide access to the lowlands portion of the property. Similarly, proposed fencing at Lot E would be placed along the border of VTTM 15402 and the lowlands. Finally, fencing would be placed along the border of VTTM 15402 and Gum Grove Park within Lot C. There is no proposed gate to allow passage through the fences at Lots C and E. The fencing would be decorative tubular steel 'view' fencing through which views may be taken.

As noted elsewhere in these findings, the Commission is requiring the applicant to revise all perimeter fencing to be impassable to common domesticated animals, including the fencing within Lots C through E or between said lots and the lowlands. For biological protection purposes it is important –at this time- to restrict intrusions into the lowlands portion of the property to the maximum extent feasible. Therefore, the Commission is supportive of the applicant's proposal to construct gates between the residential development and the lowlands which limit such intrusions. However, in the future, the fencing within or between Lots C, D and E and the lowlands and/or Gum Grove Park may need to be reconfigured to allow passage through the fencing in order to facilitate public access to the lowlands and Gum Grove Park. The need for fence reconfiguration and design of the reconfiguration will be dependent upon the design of the habitat restoration and environmental education facilities (i.e. trails, interpretive signage, etc.) in the lowlands. Issues relating to the interaction of habitat restoration and public access will need to be considered in conjunction with

changes to the fencing within Lots C, D and E. In order to assure that the applicant and/or successor(s) in interest to VTTM 15402 coordinate with any entity which undertakes habitat restoration and environmental education projects within the lowlands, the Commission imposes Special Condition 6. Special Condition 6 requires the applicant and/or successors in interest to VTTM 15402 to work cooperatively with any entity undertaking development within the lowlands for habitat restoration, open space management and environmental education purposes to maximize public access to the lowlands. Special Condition 6 also states that the fencing constructed within or between Lots C, D and E of VTTM 15402 and the lowlands or Gum Grove Park shall be considered temporary structures. In consultation with the Executive Director of the Commission, the fencing shall be removed and/or reconfigured at the time that any future coastal development permit approves development within the lowlands to which public access would be improved by removal or reconfiguration of the fencing on or between Lots C, D and E and the lowlands and Gum Grove Park. At the time removal or reconfiguration of the fencing is considered, the Executive Director shall determine whether an amendment or new coastal development permit is necessary to undertake the work. The applicant and/or successors in interest shall be responsible for removal and/or reconfiguration of the fencing and for obtaining any necessary approvals from the Commission. In order to assure that all existing and future landowners are aware of the above requirements, the Commission requires the applicant to execute and record a deed restriction incorporating the above requirements.

Also, the decision to allow the applicant to restrict the entry of public vehicular traffic to the residential subdivision was contingent upon the applicant's provision of public parking directly accessible from Seal Beach Boulevard. The applicant is proposing to comply with this contingency by dedicating a public access easement over that portion of Street A of Tentative VTTM 15402 which is necessary to access a parking lot to be constructed next to Seal Beach Boulevard within Lot 3 of VTTM 15381. Street A is the road via which residents would travel from Seal Beach Boulevard into the residential development. Special Condition 18 of CDP 5-97-367, as amended, requires the applicant to submit a revised VTTM 15402 showing the manner of access to the required parking lot. The applicant has stated the intention to comply with this requirement. Meanwhile, Special Condition 18.D. of CDP 5-97-367, as amended, also requires the applicant to construct the above identified parking lot, plus a trail from the parking lot to the central area of Gum Grove Park, prior to commencement of construction of the houses which are now proposed. In order to assure that the requirements of Special Condition 18 are met, the Commission imposes Special Condition 1. Special Condition 1 requires the applicant to comply with all prior to permit issuance requirements of CDP 5-97-367, as amended, before issuance of the subject permit. Additionally, Special Condition 1 requires the applicant to comply with the post-permit issuance requirements of Special Condition 18.D. prior to issuance of the subject permit.

2. Gum Grove Park Dedication

Under CDP 5-97-367, as amended, the applicant proposed and the Commission required the dedication of Gum Grove Park to the City of Seal Beach. Special Condition 17 of CDP 5-97-367, as amended, requires the applicant to dedicate fee title of Gum Grove Park prior to the issuance of building permits for the residential structures. In order to assure compliance with the requirements of Special Condition 17 and with Section 30210 and 30213 of the Coastal Act, the Commission imposes Special Condition 1 which requires that, prior to issuance of this coastal development permit, the applicant must comply with Special Condition 17 of CDP 5-97-367, as amended.

3. Access and Recreation - Conclusion

The Commission has reviewed and modified the proposed project to conform with the public access protection policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission.

The Commission previously found that development of the residential community would have adverse impacts upon public access to coastal recreational areas. In order to mitigate these impacts, the Commission required the applicant to dedicate public park area, provide public parking and trails and to allow public pedestrian and bicycle traffic through the development. The proposed development contains features such as fencing and entry gates which presently have an impact or in the future may have an impact upon public access. The Commission has imposed special conditions requiring the applicant to agree to certain restrictions and to modify plans to assure that public access is not impacted. As conditioned, the Commission finds that the proposed project is consistent with Sections 30210, 30212.5, 30213 and 30252 of the Coastal Act.

F. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed project will result in the construction of 70 single family homes and associated infrastructure within a subdivision previously approved by the Commission. The implementation of the project will result in two phases where potential impacts upon water quality would occur: 1) the construction phase; and 2) the post-construction phase including the commitment of an 18.4 acre area for residential purposes. Construction phase impacts include erosion and sedimentation of coastal waters during grading. Post-construction phase impacts relate to the occupation and use of the proposed residential development. Run-off from residential developments is commonly polluted with petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides, and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal waters can cause: eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size; excess nutrients causing algae

blooms and sedimentation increasing turbidity which both reduce the penetration of sunlight needed by aquatic vegetation which provide food and cover for aquatic species; disruptions to the reproductive cycle of aquatic species; and acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior. These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes and reduce optimum populations of marine organisms and have adverse impacts on human health.

In order to assure that the residential subdivision conformed with Section 30231 of the Coastal Act, the Commission previously imposed Special Conditions 7, 23, and 24 under CDP 5-97-367, as amended. Special Condition 7 of CDP 5-97-367, as amended, requires that, prior to the issuance of the coastal development permit, the applicant submit, for the review and approval of the Executive Director, a National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan, and Structural and Non-structural Best Management Practices for the proposed project, in compliance with the standards and requirements of the California Regional Water Quality Control Board. Special Condition 7 of CDP 5-97-367, as amended, requires the applicant to implement and comply with the water quality measures approved by the Executive Director. In addition, Special Condition 7 of CDP 5-97-367, as amended, requires that runoff from the site be directed to the Los Alamitos Retarding Basin (LARB) to the maximum extent feasible. In addition, Special Condition 7 of CDP 5-97-367, as amended, requires the permittee to comply with mitigation measures WQ-5 through WQ-10 inclusive as approved by City of Seal Beach City Council Resolution 4562. Water Quality (WQ) measures 5 through 10 are contained in the City's certification of the Hellman Ranch Specific Plan and are as follows:

- WQ-5 *Prior to moving construction equipment on site, the project developer shall provide evidence to the City Engineer that a national Pollution Discharge Elimination System (NPDES) permit has been obtained from the State Water Resources Control Board (SWRCB). Once obtained, the NPDES permit shall be retained on the construction site throughout the construction period, and a copy shall be filed with the City Engineer.*
- WQ-6 *During construction, the City Engineer shall ensure that all the terms and conditions outlined in the National Pollution Discharge Elimination System (NPDES) permits, including the implementation of Best Management Practices (BMP's) are complied with.*
- WQ-7 *Prior to issuance of grading permits, Project developer shall prepare a Storm Water Pollution Prevention Plan (SWPPP) for the proposed project. This plan shall be submitted to the City Engineer for review and comment prior to implementing any SWPPP provisions or starting any construction activity. A copy of the SWPPP shall be held by the construction contractor(s) on the construction site throughout the development of the Hellman Ranch Specific Plan. The City Engineer will monitor and enforce the provision of the SWPPP.*
- WQ-8 *During operation of the proposed project, the Project Owner/Operator shall ensure that all pest control, herbicide, insecticide and other similar substances used as part of maintenance of project features are handled, stored, applied and disposed of by*

those doing facility maintenance in a manner consistent with all applicable federal, state and local regulation. The City Engineer shall monitor and enforce this provision. Responsible agencies shall be indicated in the Golf Course Management Plan.

WQ-9 Prior to issuance of grading permits, the project developer shall provide evidence to the Director of Development Services that a water quality management plan (WQMP) has been prepared for the project in a manner consistent with the Orange County Drainage Area Management Plan. The WQMP shall contain provisions and Best Management Practices (BMP's) for both construction and operating/municipal conditions. The WQMP shall also remain flexible to modification to provide appropriate safeguards for the wetlands and Los Alamitos Retarding Basin.

WQ-10 Prior to issuance of the grading permits, the City Engineer shall verify that structural BMP's have been permanently incorporated into project plans by the Applicant. Such BMP's shall ensure that pollutants from project-related storm water entering the LARB and the San Gabriel River are mitigated consistent with applicable state and local standards.

Special Condition 7 of CDP 5-97-367, as amended, references several documents including the National Pollutant Discharge Elimination System permit ("NPDES"), Storm Water Pollution Prevention Plan; Structural and Non-structural Best Management Practices, the Orange County Drainage Area Management Plan, and a Water Quality Management Plan. These references refer to permits and documents required under the regulations of other governing agencies with regard to stormwater runoff associated with new development during and after construction. Relevant permits implementing these requirements include the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity; and the County of Orange Municipal NPDES Stormwater Permit No. CAS618030.

The development approved by CDP 5-97-367, as amended, and the pending project involves construction activity upon more than 5 acres of total land area. In cases where more than 5 acres of such construction activity is involved for residential use, the applicant is required to comply with the State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements (WDRs) for Discharges of Storm Water Runoff Associated with Construction Activity. This permit requires the applicant to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) which addresses construction-related impacts upon storm water quality associated with the specific development occurring at the particular site in question. The SWPPP identifies pollutant sources and outlines the measures (i.e. Best Management Practices) to be taken to avoid impacts from those pollutant sources. By submitting a SWPPP which is in conformance with the requirements of the NPDES General Permit No. CAS000002 for review and approval of the Executive Director of the Coastal Commission, the applicant will demonstrate the specific measures which will be implemented to avoid adverse impacts upon water quality during the construction phase of the project. Such measures would include, but not be limited to, use of hay bales, sand bags, silt fences and temporary detention basins/settlement ponds to prevent the discharge of sediment from the construction site, use of temporary erosion control landscaping to secure graded and disturbed areas, prior to the rainy season, which remain exposed after

interruptions in construction or which remain exposed after grading is completed and before fine grading and construction of infrastructure and homes.

The subject site is also governed by the County of Orange Municipal NPDES Stormwater Permit No. CAS618030 which was issued by the California Regional Water Quality Control Board – Santa Ana Region to the County of Orange and co-permittees including the City of Seal Beach. The municipal stormwater permit requires the County and co-permittees including the City of Seal Beach to prepare and implement a drainage area management plan which addresses those measures that will be implemented to mitigate polluted run-off. These measures include requirements for the use of post-construction phase structural and non-structural Best Management Practices (BMPs) to avoid and minimize the impacts of polluted run-off upon surface waters.

The Orange County Drainage Area Management Plan (OC DAMP), submitted to the Regional Boards for compliance with the municipal NPDES permit is the implementing program for the NPDES permit. The guidelines for the use of structural and non-structural BMPs outlined in the OC DAMP were developed based upon the principle criterion identified in the NPDES permit, that being the term Maximum Extent Practicable or “MEP.” The NPDES permit defines “MEP” as follows:

“MEP” means to the maximum extent practicable, taking into account equitable considerations of synergistic, additive, and competing factors, including but not limited to, gravity of the problem, fiscal feasibility, public health risks, societal concern, and social benefits.”

The OC DAMP includes a section focused on New Development Control (Section 7.0), which requires new development (such as the proposed project) to incorporate non-structural, routine structural, and special structural BMPs “to minimize the amount of pollution entering the drainage system.”

In order to identify for the Commission the non-structural, routine structural and special structural BMPs the applicant would use to address post-construction water quality impacts from the proposed development, the applicant submitted a Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared by MDS Consulting of Irvine, California, dated January 2000 and a Storm Water Management & Water Quality Control Plan, (SWM & WQCP) prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000. The WQMP outlines, in general, the non-structural and structural BMPs which are proposed to address water quality impacts associated with the residential development. Meanwhile, SWM & WQCP describes more fully the specific measures to be implemented including the bio-swale/riparian corridor and water quality basin which were approved by CDP 5-97-367, as amended.

Briefly, the WQMP describes several BMPs designed to mitigate water quality impacts from the proposed development. Non-Structural BMPs include: 1) education for property owners, tenants, and occupants; 2) activity restrictions, to be a part of the Conditions, Covenants and Restrictions (CC & R's) for the development, including i) no car engine cleaning onsite, ii) car washing only allowed using bucket and sponge method, iii) a prohibition of car maintenance on site; iv) limitations on the use of chemicals and fertilizers; 3) in the CC & R's, identification of the homeowners association as the entity responsible for inspection and maintenance of structural and non-structural BMPs; 4) common area litter control; 5) inspection and maintenance of common area catch basins by October

15th of each year; and 6) street sweeping. Structural BMPs include: 1) filtration of surface runoff through landscaped areas; 2) efficient irrigation of common areas; 3) use of energy dissipaters; 4) catch basin stenciling; and 5) installation of inlet trash racks.

Expanding upon the WQMP, the applicant submitted the SWM & WQCP which outlines in more detail the non-structural and structural BMPs which will be implemented to mitigate the impacts of polluted storm run-off related to the proposed development. The structural BMPs outlined in the SWM & WQCP are categorized into three zones. Zone One (1) consists of trash racks and fossil filters installed into catch basins within the proposed development. The measures in Zone 1 will primarily intercept trash, litter, grease and other hydrocarbons. Zone Two (2) consists of a bio-swale designed to control fine particle sediments, debris, soap, dirt, herbicides, pesticides, and fertilizers. The bio-swale will consist of an infiltration swale with a wetland bottom and vegetation which will impound surface runoff and filter it as it passes through the basin floor. Zone Three (3) will consist of a filtration basin designed to control nutrients, microbial contaminants and toxic materials. This basin is designed to accommodate the first flush from a drainage area of 30.6 acres (i.e. the 18.4 acre residential subdivision and the 12.2 acres of off-site drainage area).

In order to assure that the proposed water quality measures were implemented and that the system was designed to mitigate (infiltrate, filter or treat) the runoff from the 85th percentile storm runoff event, the Commission imposed Special Condition 23 of CDP 5-97-367, as amended. Special Condition 23 requires the applicant to submit a final SWM & WQCP for review and approval by the Executive Director. Special Condition 23 requires the proposed post-construction treatment BMPs to be sized based on design criteria specified in the condition. Since the proposed water quality management system is necessary to mitigate the water quality impacts associated with use of the development, Special Condition 23 requires that the structural elements of the SWM & WQCP, approved by the Executive Director, be implemented prior to or concurrent with construction of infrastructure for the residential subdivision (i.e. streets, utilities, etc.). Special Condition 23 also specifies that all structural and non-structural BMPs shall be maintained in a functional capacity throughout the life of the approved development. Special Condition 23 specifies that any changes to the structures outlined in the SWM & WQCP necessary to accommodate the requirements outlined in Special Condition 23, shall require an amendment to CDP 5-97-367. Finally, in order to assure that the applicant and all successors-in-interest are aware of the requirements of Special Condition 23, the condition requires, prior to issuance of CDP 5-97-367, the applicant shall execute and record a deed restriction reflecting the requirements outlined in Special Condition 23.

In addition, since final site plans, grading plans, structural plans and landscape plans have not been submitted related to the proposed bio-swale and water quality basin, the Commission imposed Special Condition 20 under CDP 5-97-367, as amended. Special Condition 20 requires the applicant to submit final site plans, grading plans, structural plans and landscape plans for the proposed bio-swale and water quality basin which conform with the final SWM & WQCP required pursuant to Special Condition 23 of CDP 5-97-367, as amended.

In addition, the applicant's SWM & WQCP indicated that land is necessary outside the area of the residential subdivision to construct the water quality measures necessary to assure the development is consistent with Section 30231 of the Coastal Act. Therefore, the Commission imposed Special Condition 24 under CDP 5-97-367, as amended, which requires the applicant, prior to issuance of the coastal development permit amendment, to execute and record a deed restriction, in a form and

content acceptable to the Executive Director, over the area of land identified in the SWM & WQCP (including the landscaped area surrounding the water quality basin and bio-swale). The area shall be restricted for uses related to water quality management purposes.

The water quality measures required under CDP 5-97-367, as amended, were required at the subdivision stage of the approval to ensure that adequate land area was reserved for the mitigation measures. These mitigation measures anticipated and were designed to mitigate for the water quality impacts that will be generated by the development which is now proposed for construction. In order to assure that the applicant complies with Section 30231 of the Coastal Act and the water quality mitigation measures outlined by CDP 5-97-367, as amended, the Commission imposes Special Condition 1. Special Condition 1 incorporates the previously imposed special conditions by reference and mandates that all prior to permit issuance requirements of CDP 5-97-367, as amended, shall be completed prior to issuance of this coastal development permit. In addition, Special Condition 1 requires that the bio-swale and water quality basin described under CDP 5-97-367, as amended, be in place and functional prior to the commencement of the single family residential structures approved by this permit.

As noted above, the conditions previously imposed under CDP 5-97-367, as amended, address construction phase erosion control and require the applicant to re-vegetate graded areas, as necessary, for erosion control purposes. These re-vegetation measures are intended as interim construction phase requirements. The Hellman Ranch Specific Plan EIR states that if soil within the project area is left bare there is a high erosion hazard. Erosion would result in sedimentation of wetlands within the lowlands. The proposed project would include the final landscaping for the project area. In order to assure that the erosion hazard is minimized for the operational (post-construction phase) of the project, the Commission imposes Special Condition 4. Special Condition 4 requires the applicant to submit revised landscape plans indicating final landscape plans for all areas that are graded for the project.

The Commission has reviewed and modified the proposed project to conform with the water quality resource protection policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission. As conditioned, the Commission finds that the proposed project is consistent with Section 30231 of the Coastal Act.

G. HAZARDS

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

(l) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

a. Seismic / Geologic Hazards

The Seal Beach splay of the Newport-Inglewood fault (a major earthquake fault in Southern California) transects the Hellman Ranch property in a northwesterly direction. The Alquist-Priolo Act requires development for human habitation to be setback 50 feet from a fault zone. The fault across the Hellman Ranch property is 20 feet wide. Therefore, structures for human habitation cannot be built within a 120 foot wide strip of land running over the fault (20 feet for the fault plus 50 feet on either side of the fault).

No homes or other structures for human habitation are proposed on the fault. However, to further minimize hazards from seismic activity, the Commission previously imposed Special Condition 8 of CDP 5-97-367, as amended, which required incorporation of the City's geological hazards mitigation measures outlined in the EIR for the Hellman Ranch Specific Plan¹. The mitigation measures incorporated are as follows:

GEO-1 Prior to issuance of project grading permits or completion of project construction plans, the project developer shall submit to the City Engineer, completed subsurface investigations in the proposed project area, prepared by a licensed geologist, to ensure that appropriate engineering safeguards have been added to project plans to ensure that seismic standards are met as defined by the Uniform Building Code (1996), the Alquist-Priolo Special Studies Zones Act of 1972 and the City of Seal Beach General Plan. The Project Developer shall reimburse all City of Seal Beach costs of independent third-party review of said technical report.

GEO-2 The Director of Development Services shall ensure that all structures to be constructed within the Hellman Ranch Specific Plan are constructed according to the latest adopted edition of the Uniform Building Code (UBC) and other applicable codes or standards to help ensure that these structures will be able to withstand earthquakes experienced in the project area.

GEO-3 Prior to issuance of grading permits or completion of construction plans, whichever occurs earlier, the project developer shall submit to the City Engineer, a soil study

¹ The mitigation measures identified in the Specific Plan EIR were drafted at the time the 'project' included a golf course, golf clubhouse, wetlands restoration project and other development within the lowlands. These elements of the project were removed under CDP Amendment 5-97-367-A1. The CDP Amendment 5-97-367-A1 carried forward the requirements of the above special condition to the extent that the requirements still applied. In some cases, the mitigation measures may no longer be relevant. For instance, EIR Mitigation Measure GEO-4 above refers to 'constructed wetlands'; GEO-5 refers to removal of dredged fill soils; and GEO-6 through 6.4 refers to development in places of high liquefaction potential. As amended, the project approved under CDP 5-97-367 no longer includes constructed wetlands and wetlands fill or dredging. In addition, based on Figure 5-22 of the Specific Plan EIR, the project no longer includes construction in areas of moderate or high liquefaction potential.

which identified all soil types on the project site. The study shall include all measures necessary to safely work in these soil types as called for by project construction plans. The Project Developer shall reimburse City of Seal Beach costs of independent third-party review of said technical report.

- GEO-4 Prior to commencement of project grading operations, the construction contractor shall submit for the review and approval of the City Engineer a plan explaining the disposal of export or excess graded for fill material and identify the approved disposal site(s) to be used for the project. The plan will also include measures to be taken for the safe reuse of on site material as engineering or environmental fill, particularly around the constructed wetlands. Fill Material(s) used from off site construction project(s) shall be approved by the City Engineer to ensue that the material is clean and free of environmentally deleterious materials.*
- GEO-5 The Project Developer shall provide and submit measures for approval by the City Engineer which shall ensure that the necessary affected berms and impounded dredged fill soils are removed and, depending upon grades, replaced with compacted fill in order to mitigate the likelihood of lateral spreading.*
- GEO-6 Prior to the issuance of project grading permits, the City Engineer shall meet with the grading contractor and soils engineer to determine which improvement techniques shall be utilized to reduce or mitigate liquefaction potential within the lowlands area. The techniques shall include, at a minimum, the following techniques which shall be evaluated as part of the project geotechnical report:*
- GE06.1 Densification of loose sands via vibratory techniques, pressure grout the sand zones, or dewater the area and then remove and recompact the sands zones with engineered fill.*
- GE06.2 Provide gravel drains to aid in the dissipation of porewater pressure during an earthquake.*
- GE06.3 Increase the overburden pressure by adding an appropriate thickness of fill.*
- GE06.4 Where structures are proposed, provide structural support via deep foundations in the area of high liquefaction potential, and utilize post- tensioned/structural mat foundations for structures situated within moderate liquefaction prone areas.*
- GEO-7 Prior to the issuance of grading permits, the City Engineer shall meet with the construction contractor to evaluate options pertaining to the settlement process in areas underlain by soft silts and clay soils and the preloading of the ground in these areas by placement of a surcharge fill if recommenced by the project geotechnical study.*

GEO-8 Organic-rich layers found on the project site should be removed, blended with other inorganic onsite soils where necessary and recompact, or selectively disposed of outside of the structural fill arms. Excavated soils may require spreading to dry before being placed as engineered fill. If large pockets or thick layers of highly organic materials (dark organic soils) are encountered during excavation, these material should be stockpiled for future disposal or used in nonstructural fills on the project site.

The development proposed under this application would occur upon the upland mesa portion of the Hellman Ranch site. Other than seismic hazards, the geologic report prepared for the project did not identify any significant geologic hazard associated with development of the upland mesa. Mitigation measures were outlined in the Hellman Ranch Specific Plan EIR (cited above) which would reduce any potentially significant impact to insignificance. These mitigation measures primarily relate to the grading of the site (which is not the subject of this permit). However, these measures also relate to the design of the structures, such as the foundation system. For instance, the mitigation measures GEO-1 and GEO-2 requires the applicant to complete a detailed subsurface geologic investigation to ensure that appropriate seismic hazard safeguards are incorporated into the grading and the structures and requires that the development occur in conformance with current building code. Mitigation measure GEO-3 requires the applicant to prepare a soil study to ensure that soil preparation and foundation designs adequately compensate for any adverse soil conditions. Mitigation measures GEO-4, GEO-6 through 6.4, and GEO-7 establish requirements related to the grading of the site. These measures must be undertaken prior to commencement of construction of the residential structures. Therefore, in order to ensure that all previously identified mitigation measures are implemented prior to the commencement of construction of the homes and to assure the structural integrity of the development, the Commission imposes Special Condition 1 and 8. Special Condition 1 requires the applicant to complete the requirements of mitigation measures GEO-1 through GEO-4, and GEO-6 through GEO-7 prior to issuance of this coastal development permit. Special Condition 8 requires the applicant to submit final plans for each residential structure including site plans, floor plans, elevations and foundation plans, as modified by Special Condition 8. Special Condition 8 also requires the applicant to submit, for the Executive Director's review and approval, evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the geologic hazard mitigation requirements outlined in Special Condition 8 of Coastal Development Permit 5-97-367, as amended. If compliance with above outlined mitigation measures requires substantial changes to the plans, an amendment or new permit is required unless the Executive Director determines that no amendment or new permit is necessary.

The Commission has reviewed and modified the proposed project to conform with the hazard mitigation policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission. Therefore, as conditioned, the Commission finds the proposed development consistent with Section 30253 of the Coastal Act as it pertains to geologic hazards.

b. Flood Hazards

The Hellman Ranch site is located near a major river and a flood control basin. However, the proposed development would be located on an upland mesa well above flood level. Therefore, the proposed development would not be at risk of flooding.

However, the proposed development would create impervious surfaces which would increase the quantity of runoff generated from the site. This runoff would be directed toward the Los Alamitos Retarding Basin (LARB). The Hellman Ranch Specific Plan EIR states that, under extreme storm conditions (i.e. the 100-year storm), the LARB would not be able to accommodate the flows from the development. Rather, these flows would need to be detained on site in order to prevent any overflow of the LARB generated by runoff from the new development. Once detained, these flows could be released slowly to the LARB over several hours or days, as needed. The Commission previously imposed Special Condition 8 which incorporated the City's hydrology mitigation measures outlined in the City-approved EIR for the Hellman Ranch Specific Plan, as follows:

- WQ-1 Prior to the issuance of grading permits, the Project Developer shall submit a final drainage plan for the proposed project for review and approval by the City Engineer.*
- WQ-2 Prior to issuance of grading permits, the Project Developer shall ensure that coordination between the City of Seal Beach and the Orange County Flood Control District has been undertaken to demonstrate the ability of the project to meet interim County flood control requirements at the Los Alamitos Retarding Basin. To this end, a final hydrology report shall be approved by the City Engineer which reports effects, if any, on the Los Alamitos Retarding Basin.*
- WQ-3 Prior to the issuance of building permits, the project developer shall submit to the City Engineer proof of payment of the City's drainage fees, as applicable.*
- WQ-4 Prior to the issuance of grading permits, the Project Developer shall provide and submit measures for approval by the City Engineer which shall ensure that all structures located within project boundaries, subject to flooding from 100-year storm events, are constructed on a pad of earth elevated at least one foot above 100-year flood elevations. This requirement will be monitored and enforced by the City Engineer.*

The Commission also previously imposed Special Conditions 7, 23 and 24 under CDP 5-97-367, as amended, which require the applicant to construct a water quality bio-swale and detention basin. The location of the required basin is identified in Special Condition 24 of CDP 5-97-367, as amended. This basin would filter and detain nuisance and storm flows from an approximately 43 acre drainage area including the residential area, a portion of Gum Grove Park (where the required parking lot is to be located) and a portion of Seal Beach Boulevard, prior to discharge into the LARB and the San Gabriel River.

In order to assure that the project would not have any adverse flooding impacts, the mitigation measures previously required and approved by the Commission must be in place and functional. Therefore, the Commission imposes Special Condition 1 which requires implementation of the flood control measures prior to issuance of CDP 5-01-288. The Commission also imposes Special Condition 8 which requires submittal of final plans demonstrating conformance with flood control requirements. Plans which do not substantially conform with previously submitted plans shall require an amendment or new permit unless the Executive Director determines that no amendment or new permit is required.

The Commission has reviewed and modified the proposed project to conform with the hazard mitigation policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30253 of the Coastal Act as it pertains to flood hazards..

H. NEW DEVELOPMENT

Section 30250 of the Coastal Act states, in relevant part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed development is generally located upon an approximately 196.6 acre site that is essentially undeveloped except for about 28.2 acres of oil production facilities and small structures housing the property owner's offices. The development would be confined to an approximately 20 acre area on and around the uplands adjacent to Seal Beach Boulevard. Thus, the subject site is one of a few remaining, privately owned vacant pieces of land along the Southern California coast. The proposed development involves the construction of homes, landscaping and other appurtenances within a subdivision previously approved by the Commission. The proposed development is less dense and intense than previous development proposals for the subject site. Although the site itself is largely undeveloped, the subject site is surrounded by other urban residential, commercial and industrial development where there are existing arterial roads and major infrastructure which would serve the proposed development. Thus, the proposed development is located within an existing developed area able to accommodate it. In addition, the Commission has imposed special conditions under CDP 5-97-367, as amended, and under this permit which are designed to address adverse impacts upon coastal resources and public access. These measures will assure that the project would not have any individual or cumulative impact upon coastal resources.

The Commission has reviewed and modified the proposed project to conform with the biological resource, visual resource, public access protection, and hazard mitigation policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission. Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30250 of the Coastal Act.

I. ARCHAEOLOGICAL RESOURCES

Section 30244 of the Coastal Act states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The Hellman Ranch site contains eleven State-identified cultural resources sites. Two of these sites would be left untouched in their current location in Gum Grove Park. However, the grading approved under CDP 5-97-367, as amended, for the residential subdivision would impact seven of the other designated archaeological sites. In addition, construction of the bio-swale and detention basin, also approved under CDP 5-97-367, as amended, would potentially impact two additional sites. In order to address these impacts and to assure consistency with Section 30244 of the Coastal Act, the Commission imposed Special Condition 19 which required the applicant to undertake the proposed archeological investigation, established requirements related to selection of archeologists and Native American monitors, required post-investigation mitigation measures, monitoring of construction activities, and established requirements related to construction-phase discoveries of artifacts and human remains.

In order to assure that the applicant carries out the requirements of Special Condition 19 of CDP 5-97-367, as amended, the Commission imposes Special Condition 1 on this coastal development permit. Special Condition 1 incorporates the requirements of Special Condition 19 of CDP 5-97-367, as amended, and requires the applicant to satisfy all prior to issuance requirements of CDP 5-97-367, as amended before issuance of the subject permit. In addition, Special Condition 19 contains post-permit issuance requirements which are necessary to assure consistency with Section 30244 of the Coastal Act. Part C of Special Condition 19 requires the applicant to submit a post-investigation report which outlines mitigation measures that need to be undertaken. Part D of Special Condition 19 requires the applicant to undertake the mitigation measures outlined in the report required in Part C and requires the applicant to submit evidence of such compliance. These mitigation measures could require some modifications to the development proposed under CDP 5-01-288. In order to assure that the project area remains open and accessible to carry out the mitigation measures, these measures must be undertaken prior to the commencement of construction of the development which is proposed under this permit. Therefore, Special Condition 1 requires the applicant to comply with the post-permit issuance requirements of Special Condition 19.C. and 19.D. prior to issuance of the subject permit. In addition, Special Condition 1 notified the applicant that any changes to the project

required to comply with the requirements of CDP 5-97-367 may also require an amendment to CDP 5-01-288.

The Commission has reviewed and modified the proposed project to conform with the archeological resource protection policies of the Coastal Act. In order to assure that the applicant conforms with the project as submitted and conditioned by the Commission, to ensure that the Executive Director is notified of any changes to the project, and to ensure that the Commission reviews any changes to the project which may change the consistency of the project with the Chapter 3 policies of the Coastal Act, the Commission imposes Special Condition 9. Special Condition 9 requires the applicant to conform with the project as modified by the Commission and notifies the applicant that changes to the project may require an amendment or new permit from the Commission. Therefore, as conditioned, the Commission finds that the proposed project is consistent with Section 30244 of the Coastal Act.

J. DEVELOPMENT AGREEMENT

The applicant has entered into a development agreement with the City of Seal Beach for the proposed development. California Government Code Section 65869 stipulates that development agreements shall not be applicable to development in the coastal zone unless, prior to certification of the local coastal program ("LCP") for the jurisdiction in which the development is located, the Commission, through formal action, approves the development agreement.

Since the LCP for the City of Seal Beach has not been certified, the Commission will have to approve the development agreement before the agreement can be effective. The development agreement will be acted on by the Commission as a separate hearing item at the November 2001 meeting.

K. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal development permit only if the permitted development will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter Three policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned, is consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed development is located in an urban area. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned in order to be found consistent with the biological, public access, hazard, water quality and archaeology policies of Chapter Three of the Coastal Act. The mitigation measures which apply to the project include: 1) conformance with requirements previously imposed by the Commission under CDP 5-97-367, as amended, necessary to assure the subdivision and grading of the site conform with Chapter 3 policies of the Coastal Act prior to issuance of the subject permit; 2) construction phase requirements to avoid impacts upon wetlands and adjacent sensitive habitat; 3) requirements related to the identification and siting of a construction staging area; 4) a requirement that the applicant revise the project plans to install fencing impervious to domestic animals, direct lighting away from sensitive habitat areas, install southern California native landscaping throughout the development and plant vegetation for visual screening and biological buffering, and revise the entry to facilitate public access; 5) conformance with requirements related to the appearance of the structures; 6) a requirement that the applicant agree to certain measures related to public access through the residential subdivision; 7) a requirement that the applicant execute and record a deed restriction regarding permit requirements for future development; 8) a requirement the applicant submit final plans in substantial conformance with previous plans; and 9) a requirement the applicant strictly conform with the project as modified by the special conditions above. The required mitigation measures will minimize all significant adverse effects which the activity will have on the environment.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of CEQA.

APPENDIX A: Substantive File Documents

1. **COASTAL DEVELOPMENT PERMITS AND COMMISSION ACTIONS**

- A. Coastal Conservancy Project #1-82; Approved 4/22/82
- B. 5-82-221 (Ponderosa Homes); withdrawn 11/17/82
- C. 5-89-514 (MOLA Development Corporation); denied 11/14/89
- D. 5-89-1087 (MOLA Development Corporation); approved 1/12/90
- E. 6-90-219 [Batiquitos Lagoon restoration and enhancement]
- F. 5-97-367 (Hellman Properties LLC); approved September 9, 1998
- G. 5-97-367-A1 (Hellman Properties LLC); approved October 11, 2000

2. **WETLAND AND BIOLOGICAL RESOURCES DOCUMENTS**

- A. An Assessment of Wetland Resources Within the City of Seal Beach South of the San Gabriel River, prepared by Bob Radovich of the California Department of Fish and Game, June 1980.
- B. Determination of the Status of Wetlands Within the City of Seal Beach, Immediately South and East of the San Gabriel River Channel (Ponderosa Seal Beach Wetlands), prepared by the California Department of Fish and Game, January 13, 1982.
- C. Conceptual Wetlands Restoration Plan for the Hellman Ranch dated November 1997 prepared by Moffatt & Nichol Engineers in association with Coastal Resources Management.
- D. Addendum to Concept Wetlands Restoration Plan for the Hellman Ranch dated February, 1998 prepared for Hellman Properties LLC by Moffatt & Nichol Engineers (M&N) File: 3693) in association with Coastal Resources Management
- E. Hellman Ranch Wetland Restoration Feasibility Study dated July 20, 1998 prepared for The Port of Long Beach by Moffatt & Nichol Engineers (M&N File: 3693)
- F. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated September 11, 2000, regarding Response to June 19, 2000, letter from the California Department of Fish and Game Regarding Biological Resources at Hellman Ranch.
- G. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes and Hellman Properties dated June 28, 2000, regarding Biological Benefits of

Proposed Wetland Treatment System, CDP 5-97-367-A1, Hellman Ranch Property, Orange County, California.

- H. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated January 6, 2000, regarding Results of Biological Resources Review and Analysis of Wetland Impacts Associated with 18.4-Acre Portion of the Hellman Ranch Property, Orange County, California.
- I. Letter from Glenn Lukos Associates of Lake Forest, California to John Laing Homes dated February 23, 2000, and revised July 14, 2000, regarding Results of Focused Surveys Conducted for Western Burrowing Owl on 18.4-acre Portion of the Hellman Ranch Property, Orange County, California.

3. WATER QUALITY DOCUMENTS

- A. State Water Resources Control Board Order No. 99-08-DWQ, National Pollution Discharge Elimination System (NPDES) General Permit No. CAS000002, Waste Discharge Requirements (WDRS) for Discharges of Storm Water Runoff Associated with Construction Activity.
- B. California Regional Water Quality Control Board, Santa Ana Region, Order No. 96-31, NPDES No. CAS618030, Waste Discharge Requirements for the County of Orange, Orange County Flood Control District, and the Incorporated Cities of Orange County within the Santa Ana Region, Areawide Urban Storm Water Run-off, Orange County.
- C. Orange County NPDES Stormwater Program, Drainage Area Management Plan, April 1993.
- D. Storm Water Management & Water Quality Control Plan, prepared for Hellman Properties LLC and John Laing Homes, prepared by MDS Consulting and Fuscoe Engineering of Irvine, California, dated July 27, 2000.
- E. Water Quality Management Plan (WQMP), Tract 15402, Hellman Ranch, prepared for John Laing Homes by MDS Consulting of Irvine, California, dated January 2000.

4. OTHER DOCUMENTS

- A. Final Environmental Impact Report for the Hellman Ranch Specific Plan dated August 1997 prepared by P&D Consultants for the City of Seal Beach (State Clearinghouse No. 96121009) and certified by City of Seal Beach City Council Resolution 4562 on September 19, 1997.
- B. "Development Agreement by and Between the City of Seal Beach and Hellman Properties, LLC Relative to the Development known as the Hellman Ranch" dated October 27, 1997; as amended by the City Council of Seal Beach on April 9, 2001, and administratively amended on September 2001.

- C. A Research Design for the Evaluation of Archaeological Sites within the Hellman Ranch Specific Plan Area dated November 1997 prepared by KEA Environmental, Inc. for the City of Seal Beach

APPENDIX B: Local Approvals

- 1) City of Seal Beach City Council Resolution 4570 approving Tentative Tract Map No. 15381 (subdivision of site into 9 lots)
- 2) City of Seal Beach City Council Resolution 4571 approving Tentative Tract Map No. 15402 (Residential subdivision);
- 3) City of Seal Beach Ordinance 1420 adopting the Hellman Ranch Specific Plan
- 4) City of Seal Beach Resolution 4562 approving the Final Environmental Impact Report for the Hellman Ranch Specific Plan; October 27, 1997
- 5) City of Seal Beach Ordinance 1471 approving the First Amended and Restated Development Agreement between the City of Seal Beach and Hellman Properties LLC, April 9, 2001 and administratively revised September 2001.
- 6) City of Seal Beach, Approval-in-concept of revised Tentative Tract Map No. 15402 (Residential subdivision) dated April 26, 2000.
- 7) City of Seal Beach Ministerial Approval of Administrative Amendments to the Hellman Ranch Specific Plan dated May 5, 2000;
- 8) City of Seal Beach, Approval-in-concept of June 15, 2001.